

X. Concurrency Management System

Requirements for Concurrency The City of Clewiston shall require that all development meet the requirements of concurrency, except for those developments that have been issued a development order or development permit by the City prior to adoption of the original Comprehensive Plan on March 18, 1991 and have begun construction and are continuing construction in good faith. Development rights determined to be vested shall be subject to concurrency as outlined in the Comprehensive Plan. Pursuant to the requirements for concurrency, as established in §9J-5.0055(2), F.A.C., the following shall meet the requirements for concurrency:

Minimum Requirements for Concurrency. The City's concurrency management system shall ensure that public facilities and services needed to support development are available concurrent with the impacts of such developments.

- (a) For potable water, sewer, solid waste, and drainage, at a minimum, provisions in this Comprehensive Plan ensure that the following standards will be met will satisfy the concurrency requirement:
 - 1. The necessary facilities and services are in place at the time a development permit is issued; or
 - 2. A development permit is issued subject to the condition that the necessary facilities and services will be in place when the impacts of development occur; or
 - 3. The necessary facilities are under construction at the time a permit is issued; or
 - 4. The necessary facilities and services are guaranteed in an enforceable development agreement that is consistent with the Level of Service Standards adopted by the City and consistent with the provisions of Chapter 163 Florida Statutes and Rule 9J-5.005 An enforceable development agreement may include, but is not limited to, development agreements pursuant to §163.3220, F.S., or an agreement or development order issued pursuant to Chapter 380, F.S. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur.
- (b) For parks and recreation, the City may satisfy the concurrency requirement by complying with the Level of Service Standards adopted by the City and consistent with the provisions of Chapter 163 Florida Statutes and Rule 9J-5.005 or by complying with Comprehensive Plan provisions that ensure that the following standards will be met:

1. At the time the development permit is issued, the necessary facilities and services are the subject of a binding executed contract which provides for the commencement of the actual construction of the required facilities or the provision of services within one year of the issuance of the development permit; or
 2. The necessary facilities and services are guaranteed in an enforceable development agreement that requires the commencement of the actual construction of the facilities or the provision of services within one year of the issuance of the applicable development permit. An enforceable development agreement may include, but is not limited to, development agreements pursuant to §163.3220, F.S., or an agreement or development order issued pursuant to Chapter 380, F.S.
- (c) For roads and mass transit designated in the adopted plan, the City may satisfy the concurrency requirement by complying with the standards in Rules 9J-5.0055(2)(a)1-4 and (3)(c), F.A.C. To facilitate the implementation of the Concurrency requirements, the city shall ensure the following standards are in place:
1. A capital improvement element and a five-year schedule of capital improvements which, in addition to meeting all of the other statutory and rule requirements, must be financially feasible. The capital improvements element and schedule of capital improvements may recognize and include transportation projects included in the first three years of the applicable, adopted Florida Department of Transportation five-year work program and the Hendry County Five-Year Capital Improvement Schedule.
 2. A five-year schedule of capital improvements which must include both necessary facilities to maintain the adopted level of service standards to serve the new development proposed to be permitted and the necessary facilities required to eliminate those portions of existing deficiencies which are a priority to be eliminated during the five-year period under the local government plan's schedule of capital improvements pursuant to Rule 9J-5.016(4)(a)1-4, F.A.C.
 3. A realistic, finically feasible funding system based on currently available revenue sources which must be adequate to fund the public facilities required to serve the development authorized by the development order and development permit and which public facilities are included in the five-year schedule of capital improvements.
 4. A five-year schedule of capital improvements which must include the estimated date of commencement of actual construction and the estimated date of project completion.

5. A five-year schedule of capital improvements which must demonstrate that the actual construction of the road or mass transit facilities and the provision of services are included to commencement in or before the third year of the five-year schedule of capital improvements.
 6. A provision that a plan amendment would be required to eliminate, defer or delay construction of any road or mass transit facility or service which is needed to maintain the adopted level of service standard and which is listed in the five-year schedule of improvements.
 7. A requirement that the City of Clewiston must adopt local development regulations which, in conjunction with the capital improvements element, ensure that development orders and permits are issued in a manner that will assure that the necessary public facilities and services will be available to accommodate the impact of that development.
 8. A provision that a monitoring system shall be adopted which enables the City to determine whether it is adhering to the adopted level of service standards and its schedule of capital improvements and that the City has demonstrated capability of monitoring the availability of public facilities and services.
 9. A clear designation within the Clewiston Comprehensive Plan of those areas within which facilities and services will be provided by the City with public funds in accordance with the five-year capital improvements schedule.
- (d) In determining the availability of services or facilities, a developer may propose and the City may approve developments in stages or phases so that facilities and services needed for each phase will be available in accordance with the standards required by Rules 9J-5.0055(2)(a), (2)(b) and (2)(c), F.A.C.

Issuance of Development Orders or Permits

The concurrency management system shall ensure that all development can meet the requirement for concurrency prior to the issuance of a local development order or permit. The determination that concurrency can be met shall occur after the submission of a satisfactorily sufficient application for development, within a specified timeframe to be established in the concurrency management system but prior to the final approval of a proposed development. All applicants for development orders or permits shall be required to provide all information deemed necessary by the City so that the impacts of the proposed development may be accurately assessed. Once the City has determined that a proposed development meets the requirements for concurrency, and has been issued a local development order or permit, the City shall not revoke

that development order or permit because of a subsequent facility capacity deficiency, unless the proposed development would cause unhealthy or unsafe conditions, or unless the proposed development was issued a development order or permit under erroneous information supplied by the proposed developer, or unless the proposed developer fails to meet the conditions of approval of the development order or permit once construction has begun. In this latter situation, certificates of occupancy may also be denied.

The concurrency management system shall also establish a time limit by which construction must commence, and conditions for development to continue in good faith, in order to maintain the public facility capacity allocated to the approved development. Failure to commence construction within the designated timeframe, or failure to continue development in good faith, may result in the forfeiture of the public facility capacity allocated to the approved development.

The City of Clewiston shall annually determine the available capacity for public facilities for which the City has operational or maintenance responsibility, and for state and federal roads. Owners or operators of the public facilities not operated, maintained or owned by the City shall supply the City with available capacity information annually, or as otherwise reasonable depending on development activity that requires the use of such a facility.

Applicable Goal, Objective and Policy Statements

In addition to the basis for the City's Concurrency Management System as outlined in this section, individual objectives and policies throughout the City of Clewiston's Comprehensive Plan establish level of service standards and otherwise support and implement the concurrency doctrine.

Purpose

The purpose of a Concurrency Management System is to provide the necessary regulatory mechanism for evaluating development orders to ensure that the level of service standards adopted as part of the Comprehensive Plan are maintained. The system will consist of three primary components: an inventory of existing public facilities for which concurrency is to be determined, a con-currency assessment of each application for a final development order or permit, and a schedule of improvements needed to correct any existing public facility deficiencies. Under this system, and according to Florida State Legislature, no development orders may be issued which will cause a public facility to operate below its adopted level of service standard. However, development orders may be conditioned such that needed public facility improvements will be in place concurrent with the impacts of the proposed development.

In order to ensure that all public facilities included within this system are available concurrent with the impacts of development, concurrency will be determined during the final site plan or final subdivision plan approval process. All development orders and permits will specify any needed improvements and a schedule for their implementation. Thus, while some required improvements may not have to be completed until a certificate of occupancy is applied for, the

requirements for the certificate of occupancy will have already been specified as a condition of approval of the original development order. If a development proposal cannot meet the test for concurrency, then it may not proceed under any circumstances and no development orders or permits may be issued. Likewise, if a development fails to meet a condition of approval once it has commenced, then no additional development orders, permits, or Certificates of Occupancy may be issued.

Applicability

Prior to the granting of a development order, all applications for a final site plan or final subdivision plan shall be reviewed for concurrency consistent with the provisions and requirements of this system. Development orders may be issued only upon a finding by the City that the public facilities addressed under the Concurrency Management System will be available concurrent with the impacts of the development.

All applicants for development permits shall be required to provide all information deemed necessary by the City so that the impacts of the proposed development may be accurately assessed.

The City's land development regulations will specifically list the application requirements for development permits that reflect the informational needs for the determination of Concurrency, and application forms shall be developed accordingly.

Administrative Responsibility

The City's Building Official or his designee will be responsible for the four primary tasks required to implement the Concurrency Management System. The four tasks are:

1. Maintaining an inventory of existing public facilities and capacities or deficiencies;
2. Determining concurrency of proposed development which does not require City Commission approval;
3. Providing advisory concurrency assessments and recommending conditions of approval to the City Commission for those applications for development orders which require City Commission approval; and
4. Reporting the status of all public facilities covered under this system to the City.

Capacity and Level of Service Inventory

The Building Official will collect and make available to the public, information on certain facilities as described in Table X.1. The information shall be available to the public and

updated on or about September 1 each year thereafter. The provisions and requirements of the Concurrency Management System shall apply only to those facilities listed in Table X.1.

Table X.1

**Public Facilities Capacities and Level of Service
Inventory for Concurrency Management
City of Clewiston, Florida**

The following data will be maintained by the Building Official and shall be used for the concurrency assessment of new development.

Traffic Circulation

1. Design capacity of different roadway types.
2. The existing level of service measured by the average annual number of trips per day on a roadway link as reported by the Florida Department of Transportation or the City.
3. The adopted level of service standards for all roadway types.
4. The existing remaining capacities or deficiencies of the roadway network.
5. The capacities reserved for approved but unbuilt development.
6. The projected capacities or deficiencies due to approved but unbuilt development.
7. The improvements to be made to the roadway network in the current fiscal year by any approved developments pursuant to previous development orders and the impact of such improvements on the existing capacities or deficiencies.
8. The improvements to be made to the roadway network in the current fiscal year by the City, Hendry County, the State of Florida Department of Transportation, or other public agency and the impact of such improvements on the existing capacities or deficiencies.

Sanitary Sewer

1. The design capacity of the wastewater treatment facilities.
2. The existing level of service measured by the average number of gallons per day per unit based on the average flows experienced at the treatment plant and the total number of equivalent residential units within the service area.

3. The adopted level of service standard for average daily flows per equivalent residential unit.
4. The existing deficiencies of the system.
5. The capacities reserved for approved but unbuilt development within the service area of the system.
6. The projected capacities or deficiencies due to approved but unbuilt development within the City or the service area of the system.
7. The improvements to be made to the facility in the current fiscal year by any approved developments pursuant to previous development orders and the impact of such improvements on the existing capacities or deficiencies.

Potable Water

1. The design capacity of the City's potable water supply.
2. The existing level of service measured by the average daily flow in gallons per unit based on the total number of equivalent residential units within the service area.
3. The adopted level of service standards for the potable water system.
4. The existing capacities or deficiencies of the system in accordance with an agreement between the City and U. S. Sugar Corporation.
5. The capacities reserved for approved but unbuilt development within the City.
6. The improvements to be made to the facility in the current fiscal year by an approved development pursuant to previously issued development orders and the impact of such improvements on the existing capacities or deficiencies.
7. The improvements to be made to the facility in the current fiscal year by the City and the impact of such improvements on the existing capacities or deficiencies.

Solid Waste Disposal

1. The design capacity of solid waste disposal facilities.
2. The existing level of service measured by the amount of solid waste collected and requiring disposal on a per capita basis.
3. The adopted level of service standard for solid waste.

4. The capacities required for approved but unbuilt development.
5. The projected remaining capacities or deficiencies due to approved but unbuilt development.
6. The improvements to be made to the system in the current fiscal year by any approved developments pursuant to previous development orders and the impact of such improvements on the existing capacities or deficiencies.
7. The improvements to be made to the system in the current fiscal year by the City and the impact of such improvements on the existing capacities or deficiencies.

Stormwater Drainage

1. The existing level of service measured by storm event as determined by the City and the Clewiston Drainage District.
2. The adopted level of service standard for storm drainage.

Recreation and Open Space

1. The existing supply of parkland and recreation facilities as outlined in the Recreation and Open Space Element of this Comprehensive Plan.
2. The existing level of service measured by the total acreage and facilities available per the appropriate number of residents of the City based on a current inventory of acreage and facilities in the City and the population of the City.
3. The adopted level of service standards for parkland acreage and individual recreation facilities as outlined in the Recreation and Open Space Element of this Comprehensive Plan.
4. The existing capacities or deficiencies of the recreation facility system.
5. The capacities reserved for approved but unbuilt development.
6. The improvements to be made to the recreation facilities in the current fiscal year by any approved developments pursuant to previous development orders and the impact of such improvements on the existing capacities or deficiencies.
7. The improvements to be made to the recreation facilities in the current fiscal year by the City and the impact of such improvements on the existing capacities or deficiencies.

Concurrency Assessment

The Building Official will be responsible for determining concurrency for all applications of development orders for final site plans and/or final subdivision plans. When reviewing applications for such development orders, the Department shall perform a Concurrency assessment to ensure that public facilities are available concurrent with the impacts of the proposed development. To conduct the assessment, the inventory presented in Table X.1 shall be used as a base for the establishment of existing conditions. The capability of existing public facilities to service new development shall then be determined by using the general rules presented in Table X.2 and the facility specific rules presented in Table X.3. Finally, a determination of concurrency shall be made. Such determination may include conditions of approval which are deemed necessary for concurrency to be ensured.

The Building Official shall provide recommendations to the Planning and Zoning Board and City Commission concerning those development order applications which require Planning and Zoning Board and City Commission approvals, respectively. The comments and recommendations so provided shall include, but are not limited to:

1. The ability of existing facilities to accommodate the proposed development at the adopted level of service standards;
2. Any existing facility deficiencies that will need to be corrected prior to the completion of the proposed development;
3. The facility(ies) improvements or additions that will be needed to accommodate the impacts of the proposed development at the adopted level(s) of service standard(s);
4. The date such facility(ies) improvements or additions will need to be completed to be concurrent with the impacts on such facility(ies) created by the proposed development; and
5. A recommendation of approval or denial with any applicable conditions for the timing and location of needed improvements.

Prior to the issuance of a development order for a proposed new development, the City Commission and/or the Building Official shall:

1. Make a finding on the impacts created by the proposed development;
2. Make a finding as to whether the public facilities covered under the Concurrency Management System will be available concurrent with the impacts of new development at the adopted level;

3. Make a finding of those facility(ies) improvements or additions that are required to ensure the finding of concurrency; and
4. Make a finding of the entity responsible for the design and installation of all required facility improvements or additions.

The adopted level of service standards shall be the minimum acceptable standards with which all proposed new development shall comply. The Concurrency Management System shall not preclude the Planning and Zoning Board or the City Commission from imposing other conditions of approval including improvements and additions to the facilities covered under this system beyond the minimums necessary to achieve concurrency.

Facilities Reporting

On or about September 1 of each year, the Building Official shall report to the City Commission the information set forth in Table X.1. The report shall also include the degree of any deficiencies and a summary of the impacts the deficiency(ies) will have on the approval of development orders (e.g., the creation of a moratorium). The Building Official shall provide the City Manager with sufficient information for the City Manager to recommend to the City Commission a course of action which may include expenditures for public improvements, building moratorium, or other such actions.

Table X.2

General Rules for Concurrency Assessment City of Clewiston, Florida

Existing Deficiencies

No development may be approved which will impact a facility which is currently deficient unless the facility is required to be improved in the current fiscal year pursuant to a previous development order or permit. Such improvements and any additional needed improvements shall be completed prior to the projected impacts of the proposed development as required by Table X.3.

Approved Impacts

The impacts of new development shall be assessed against the existing conditions as described in Table X.1 and the projected impacts from approved but unbuilt development. These two items together shall be considered the existing conditions for all public facilities for the impact assessment of all proposed development.

Phasing

Development that is proposed to be phased may also phase the improvement of facilities provided the concurrency requirements for each facility as described in Table X.3 are met for each phase.

Time Specific Approval

All development approvals shall have a time period specified in the development order or permit in which development must commence. The time period may involve two or more phases but the timing of each phase shall be specified in the development order or permit. If necessary, the development order or permit may prescribe a time schedule for the initiation of the various components of the development process such as land clearing, filling, foundation pouring, etc.

Any required improvements shall also require a time period for construction and completion. Should development or facilities improvements fail to begin or be completed in accordance with the development order or permit, all outstanding approvals of the development shall expire. Amendments to time schedules shall be permitted but must be approved by the body granting the original approval.

Additional Information

The Building Official may require additional information from applicants or other City Departments in order for an accurate assessment to be conducted. Such additional informational requests shall be reasonable and be provided in writing to the applicant or appropriate Department.

Should the Building Official require a special study (such as traffic counts on a road that is not regularly monitored), the applicant shall provide such information. Review and approval of proposed development may be postponed for a reasonable time period in order that more information may be gathered on a facility. Proposed development may be denied approval, though, for failure of the applicant to provide adequate information on the projected impacts created by the development.

Source: Gee & Jenson Engineers-Architects-Planners, Inc.

Table X.3

Facility Specific Rules for Concurrency Assessment City of Clewiston, Florida

Traffic Circulation

The City shall adopt Land Development Regulations which require traffic generation analysis for all proposed developments through the use of the Institute of Traffic Engineers (ITE)

Manual. The data provided shall show the distribution of the projected trips and, using the rules presented in Table X.2 to determine existing conditions, provide a projection of the level of service of impacted road links.

Prior to the issuance of a Certificate of Occupancy, all facility improvements necessary to accommodate the impacts of that portion of the development receiving a Certificate of Occupancy shall be in place. Completed improvements may be required prior to the issuance of a building permit if deemed necessary for public safety purposes.

Sanitary Sewer

The City shall adopt Land Development Regulations which provide sanitary sewer use standards based on equivalent residential units. Commercial and industrial developments shall provide a description and estimate of wastewater generations for any commercial or industrial processes which create wastewater that will be discharged into the City's system.

Prior to the issuance of a Certificate of Occupancy, all facility improvements necessary to accommodate the impacts of that portion of the development receiving a Certificate of Occupancy shall be in place, as required by the Development Order.

Potable Water

The City shall adopt Land Development Regulations which provide potable water use standards based on equivalent residential units. Commercial and industrial developments shall provide a description and estimate of water use needs for any commercial or industrial processes involving potable water.

Prior to the issuance of a Certificate of Occupancy, all facility improvements necessary to accommodate the impacts of that portion of the development receiving a Certificate of Occupancy shall be in place, as required by the Development Order.

Solid Waste

The City shall adopt Land Development Regulations which provide a means of estimating tonnage of solid waste to be generated for which a development will be responsible for coordinating with the entity responsible for operating solid waste disposal facilities. The applicant/developer will then obtain written approval from the entity responsible for operating the solid waste disposal facilities indicating that the proposed development's waste generation can be accommodated at the facility. Such written approval shall be filed with the City.

Prior to the issuance of a Certificate of Occupancy, all facility improvements necessary to accommodate the impacts of that portion of the development receiving a Certificate of Occupancy shall be in place.

Stormwater Drainage

All development shall prepare a drainage plan based on the Stormwater Management regulations which incorporate the level of service design storm. Such plans shall be approved by the City's Engineer prior to the approval of the development.

Prior to the issuance of a building permit, all facility improvements necessary to accommodate the impacts of that portion of the development receiving the building permit shall be approved and a schedule established for their implementation such that all improvements shall be completed prior to the issuance of a Certificate of Occupancy.

Recreation

The City shall include within its Land Development Regulations recreation standards for residential uses. Commercial and industrial developments shall not be assessed as having an impact on recreational facilities. However, the City reserves the right to require the provision of recreational facilities as a part of Planned Unit Developments.

Prior to the issuance of a building permit, all facility improvements necessary to accommodate the impacts of the entire development shall be approved and a schedule established for their implementation such that all improvements shall be completed prior to the issuance of the last Certificate of Occupancy.

Source: Gee & Jenson Engineers-Architects-Planners, Inc.